

1992

Richard Dee Thomas, Petitioner and Appellant
Plaintiff, v. Pete Halin, et al. Respondent and
Appellee and Defendant : Brief of Appellant

Utah Court of Appeals

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Jan Graham, Debra J. Moore; attorneys for appellees.

Richard Dee Thomas; Attorney Pro-Se.

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IN THE UTAH [SUPREME] [COURT] [COURT OF APPEALS]

BRIEF OF APPELLANT

CIVIL SUIT

IN THE THIRD JUDICIAL DISTRICT COURT, SALT LAKE COUNTY
STATE OF UTAH

RICHARD AEE THOMAS
Petitioner / Appellant
Plaintiff,

v.

Case No. 920875-CA

PETE HALIN, et, al.
Respondent / Appellee
Defendant.

JAN GRAHAM,
UTAH ATTORNEY GENERAL

DEBRA J. MOORE
ASSISTANT ATTORNEY GENERAL
ATTORNEY FOR APPELLEES
236 STATE CAPITOL
P.O. Box 140810
SALT LAKE CITY, UTAH
84114-0810

RICHARD AEE THOMAS
ATTORNEY PRO SE
UTAH STATE PRISON
P.O. Box 250
CARPENTER, UTAH
84020

FILED

JAN 26 1993

COURT OF APPEALS

TO: UTAH [SUPREME COURT] [COURT OF APPEALS]

FROM: RICHARD DEE THOMAS #13260 UTAH STATE PRISON

RE: C434 No. COVER LETTER

YOUR HONORS;

At this time I wish to, POTRAY to this Honorable Court, why I cannot conform to this Courts Appeal Rules 24, 26, 27 - BECAUSE OF, NON-REPRESENTATION BY COUNSEL or access to Materials and or "LAW LIBRARY" in which to-Quote, citations, to authorities, Statutes, and parts of the record, or other parts of the record of central importance to the determination of the appeal.

It is my sincere belief in this matter, that I be allowed more than the, Docketing Statement, as to insure my interest in Justice being served on my behalf. I have already felt the LEVERAGE of the, Attorney General & Courts, Concerning Minute Entry in my Civil-Suit.

What I have not been treated, accordingly or fairly, as to National Law, State Law, or Utah Rules of Civil Procedure, Court Rule Annotated. I have presented my Case/Appeal, as best could to obtain Justice.

I hope you The Honorable Court understands and accepts this "BRIEF" pro se - and Judge this matter to bring about EQUAL JUSTICE in accordance to the LAW.

Thank-you.

IN THE UTAH [SUPREME] [COURT] [COURT OF APPEALS]

BRIEF TITLE

CIVIL - SUIT

IN THE THIRD JUDICIAL DISTRICT COURT, SALT LAKE COUNTY
STATE OF UTAH

RICHARD AEE THOMAS
Petitioner / Appellant,

v.

PETE HAIN, et. al.
Respondents / Appellees.

R. PAUL VAN DAM
UTAH ATTORNEY GENERAL

KIRK M. TORGENSEN
ASSISTANT ATTORNEY GENERAL
ATTORNEY FOR APPELLEES
6100 SOUTH 300 EAST, Suite 204
Salt Lake City, Utah 84107
265-5636

RICHARD AEE THOMAS
ATTORNEY PRO SE
UTAH STATE PRISON
P.O. BOX 250
DRAPER, UTAH
84020

BRIEF

IN THE UTAH [SUPREME COURT] [COURT OF APPEALS]

(1)

RICHARD AEE THOMAS, Plaintiff/Appellant

PETE HAIN
DONALD BLANCHARD
VICTORIA PALACIOS
PAUL BOYDEN
PAUL SHEFFIELD
HEATHER COOKE
PAUL LARSEN
VICKIE BRIDWELL
ANDREW HUNT
ENID O. PINO
MICHAEL SIRBETS
R. PAUL VAN AAN

KIRK M. TORGENSEN, Attorney for Appellants
J. DENNIS FREDERICK, Third District Court Judge

TABLE OF CONTENTS,

IN THE UTAH [SUPREME COURT] [COURT OF APPEALS]

COVER, COVER LETTER	pg. 1
LIST OF PARTIES TO APPEAL	2
TABLE OF CONTENTS	3
TABLE OF AUTHORITIES	4
STATEMENT OF JURISDICTION	5
STATEMENT OF ISSUES FOR REVIEW	6
PERTINENT CONSTITUTIONAL PROVISIONS	8
STATEMENT OF THE CASE	11
COURSE OF PROCEEDINGS	12
STATEMENT OF FACTS	13
A SUMMARY OF THE ARGUMENT	17
AN ARGUMENT	18
CONCLUSION, PRECISE RELIEF SOUGHT	20
A MANUAL SIGNATURE	21
MAILING CERTIFICATE	22
AN ADDENDUM	23

APPEAL SHEET.

(3)

TABLE OF AUTHORITIES

THE UTAH SUPREME COURT ESTABLISHED IN ITS "OPINION" CONCERNING THE CASE NO. 900132 JAMES CARLOS FOOTE V. UTAH STATE BOARD OF PARDONS, AND NUMBERS 41. THAT THE PRESENT PROCEEDINGS VIOLATES EITHER BOTH STATE AND FEDERAL CONSTITUTIONAL LAW.

PLAINTIFF HAS SHOWN THAT THE PROCEEDINGS OF THE UTAH BOARD OF PARDONS, CONCERNING REVOCATION, RESCISSION, HEARINGS ARE SUBJECT TO FEDERAL AND OR STATE CIVIL PROCESS AND EQUAL PROTECTION REQUIREMENTS.

UTAH SUPREME COURT, HAS DECIDED THAT POINT OF AUTHORITIES
IN:

JAMES CARLOS FOOTE

V.
UTAH STATE BOARD OF PARDONS, AND NUMBERS 41.

THAT PLAINTIFF/APPELLANT'S CIVIL SUIT SHOULD NOT HAVE BEEN DISMISSED BY NINETEENTH ENTRY

APPEAL BRIEF.

(4)

STATEMENT OF JURISDICTION

BRIEF STATEMENT OF JURISDICTION:

Once a ~~Effective~~ Notice of Appeal is filed, the district court is deprived of jurisdiction over the case.

U.S. v. Marrokordatos, 933 F.2d 843, 846 (10th Cir. 1991).

Utah Rules of Evidence Rule 302.

The Utah [SUPREME COURT] [COURT OF APPEALS] has jurisdiction in this matter pursuant Utah Rules of Appellate Procedure.

Civil-Suit. Case No. 920904193 IN THIRD DISTRICT COURT

APPEAL BRIEF.

(5)

A STATEMENT OF ISSUES FOR REVIEW

1. MINUTE ENTRY dismissal was issued not in accordance with, UTAH RULES OF CIVIL PROCEDURE, *see* Interlocutory Appeal.

2. Unsigned ORDER OF DISMISSAL also undated, to which can be construed, *as* to plaintiff not Filing Notice of Appeal in timely order, denial of EQUAL PROTECTION, not harmless Error.

3. Defendants, have not stated a Rule, in which Plaintiff did not state a claim, should be harmless Error since plaintiff's *pro se*.

"Plaintiff lists Rule 302. Utah Rules of Evidence
302. Federal Rules United States
Civil Procedure;

To invoke; UTAH RULES OF CIVIL PROCEDURE
Part VII Judgment Rule 54(b).

4. The Court has withheld proper, Utah Authority to dismiss without affording the above-captioned Rule.
see Final Order

- Claims of what?

Olsen v. Salt Lake City School Dist.,
724 P.2d 960 (Utah 1986).

5. Plaintiff, State Court and Utah Attorney General, the proper NOTICE of CLAIM REQUIREMENTS, which are being ignored in (NOT the interest of JUSTICE); which is Utah Procedure, *see* FACTS. EXHIBITS.

6. - Courts discretion, -- Abused.

Lloyds Unlimited v. Natyans Way Mktg., Ltd.,
P.2d 507 (Utah Ct. App 1988).

APPEAL BRIEF.

7. Dismissing with Prejudice; see

Farmers Picnic Food v. Fisher, 746 F.2d at 452 (Utah), Quoting Fed. R. Civ. P. #1

"The Court must determine to dismiss with Prejudice 'ONLY' when the aggravating factors outweigh the Judicial Systems Strong predisposition to resolve Cases on their MERITS.

8. Deprivation, Pre-deprivation, Liberty Interest: The Trial Court did not extend, to plaintiff, but dismissed for defendants in absence, a one-side, pre-deprivation hearing was held without Plaintiff who brings this Action.

see, 110 S.Ct. at 986-87.

110 S.Ct. at 989-90.

Liberty Interest; see Purritt v. Taylor Rule

"A State Tort Litigation" remedies applies to deprivations of Liberty as well as Property. Hudson v. Palmer, 468 U.S. 517, 530-36, 104 S.Ct. 3194 (1984).

9. Defendant, Paul Van Dam - Utah Attorney General - Qualified Immunity is defeated when government employee's violate "Clearly established rights"

1. Due Process

2. Equal Protection

see. Harlow v. Fitzgerald, 457 U.S. 800, 818, 102 S.Ct. 2727 (1982).

Anderson v. Croighton, 483 U.S. 635, 107 S.Ct. 3034 (1987).

see, Answer to Complaint, only addresses R. Paul Van Dam, is very Elusive, skips other defendants, plaintiff requires address ON ALL ISSUES, it is his Right.

10. In, Memorandum from defendants he says he cannot "Understand" where Clarification was warranted or Amendment, Judge dismisses

APPEAL BRIEF.

WINTER, V. H. STONER, 8:2 F.2d 25, 22 (2d Cir. 1954)

MILLS v. Criminal Dist. Court, 837 F.2d 677, 679-80 (5th Cir. 1988).

344, LLOYD'S LIMITED v. NATURE'S WAY MKTG., LTD., 837 F.2d 507
(4th Ct. App. 1988).

APPEAL BRIEF

(6)

PERTINENT CONSTITUTIONAL PROVISIONS

Every person who, under color of any statute, ordinance, regulation, custom, or usage of any STATE or TERRITORY or the District of Columbia, subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, any Act of CONGRESS applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

See 2989. Id. In *Lugar v. Edmondson Oil Co.*, 457 U.S. 922 (1982).

1. That Plaintiffs, STATE, United States, Constitutional Rights are NOW being violated by:

1. Defendants, see Complaint.
2. All Process
3. Equal Protection
4. Time Served, Congress IN-ALERT 1989
5. Double Jeopardy
6. Utah Board of Pardons, Policy & Procedure
Department of Corrections, Administrative
Policy & Procedure, & etc.

2. Complaint is a TORT (only city is immune
Reppv. Salt Lake City, 527 P.2d 651 (Utah 1974)

Pannhurst State School & Hospital v. Halderman, 465 U.S. 89,
104 S.Ct. 900 (1984).

"The Pannhurst decision only affects suits against
State officials and employees."

"It is also limited to claims based on STATE LAW."

A. -- Presence of petitioner.

APPEAL BRIEF.

Stinnant v. Turner, 20 Utah 2d 148, 434 P.2d 753 (1967).
-- Illegal Sentence.
Mammall v. Smith, 580 P.2d 1108 (Utah 1979).

3. The Utah Supreme Court Opinion, No. 400132 *James Carlos Footh v. Utah Board of Pardons*, member, at 41. (Utah 1991)

1. Habeas Corpus, review of Board of Pardons

A. Due Process

B. Liberty Interests

C. Equal Protection

- Purpose.

Bryant v. Turner, 19 Utah 2d 284, 431 P.2d 121 (1967).

Galkagos v. Turner, 19 Utah 2d 293, 409 P.2d 386 (1965)

-- Failure to apply new statutory interpretations retroactively.
Andrews v. Morris, 677 P.2d 81 (Utah 1983).

APPEAL BRIEF.

(7)

STATEMENT OF THE CASE

This Civil-Suit Action, arrives from the UTAH SUPREME COURT, "OPINION" CASE No. 900132 FOOTZ V. Utah Board of Pardons, 4th, 41. 156 Utah Adv. Rep. 3.

In which several, Constitutional violations were subjected on Plaintiff,

1. Board of Pardons, Time Guide Lines Matrix
2. Due Process, Reconsideration Hearing
3. Revocation Hearing, Liberty Interest
4. Deprivations
5. Equal Protection, Time Served
6. Cruel and Unusual Punishment
7. Racial Discrimination

The Third District Court Judge in dismissing this case has again Denied Due Process, Equal Protection, when dismissing on MINUTE ENTRY and Unsigned Order.

Furthermore the Judge was and is very familiar with Footz case because it was assigned to him when Utah Supreme Court remanded to, Third District Court, where it was settled and James Carlos Footz, was released, December 1991.

Plaintiff is in conformity to, Utah Rules of Civil Procedure and Rule 302. Utah Rules of Evidence, see EXHIBIT, Notice of Claim. Which Court is trying to ignore and as Pro Se Attorney, has stated claims, "upon which relief can be GRANTED."

See COMPLAINT.

APPEAL BRIEF.

COURSE OF PROCEEDINGS

The Third District Court, dismissed upon a Minute Entry
10-9-92.

The Utah Attorney General, Kirk M. Torgensen mailed me
an ORDER OF DISMISSAL, unsigned and undated, 10-22-92.

Plaintiff has filed PETITION FOR PERMISSION TO
APPEAL INTERLOCUTORY ORDER, In the Utah Court of Appeals.
ON:

A. MINUTE ENTRY

B. ORDER OF DISMISSAL

APPEAL BRIEF

STATEMENT OF FACTS

ON, 10-9-92, Third District Court Judge FREDERICK dismissed case no. 920904193 CV, on an Unsigned Minute Entry; Since an Unsigned Minute Entry does not constitute a Final Order for purposes of appeal.

State v. Cronk, 737 P.2d 198 (Utah 1987).
To include, An unsigned minute entry did not constitute an entry of judgment for purposes of appeal.

Almstrom v. Anderson, 728 P.2d 979 (Utah 1986).
Have not received Judgment from Judge.
Nor has defendants used proper procedure or Rule Part VII Judgment. 54(b) Utah Rules of Civil Procedure, Court has With-hold Utah Authority;

See, Final Order.

- Claims of relief.

Olsen v. Salt Lake City School Dist., 724 P.2d 964 (Utah 1986).
This has not happened.

- Notice of Special damages. Need not plead, NO FILE
Cohn v. J.C. Parkey Co., 537 P.2d 306 (Utah 1975).

- Court's discretion.

-- Abused.

Lloyd's Unlimited v. Nature's Way Mktg., Ltd.,
P.2d 507 (Utah Ct. App 1988).

Plaintiff sent Affidavit, NOTICE OF CLAIM, NOTICE OF INTENT, to Third District Court, and Utah Attorney General's, R. Paul Van Dam
344 EXHIBIT, *Falkner v. Casey*, 487 U.S. 131, 108 S.Ct. 2302 (1988),
Which defendants and Court has not mentioned.
Conspiracy to deprive of LIBERTY INTEREST.

Morrissey v. Brewer, 408 U.S. 471 (1972).

Motion to dismiss for failure to state a claim.

- Standard of review.

When reviewing a judgment entered on a Motion to dismiss under Subdivision (b)(6), or revised, the Court of Appeals is obliged to

APPEAL BRIEF.

construct the complaint in the light most favorable to the plaintiff and to indulge all reasonable inferences in its favor.

Hallman v. S.O. Groves & Sons Co., 290 P.2d 107 (Utah Ct. App. 1990).

-- Failure to state a claim upon which relief can be granted.

Liquor Control Comm'n v. Atlas, 121 Utah 457, 243 P.2d 441 (1952); *Christensen v. Lelis Automatic Transmission Serv., Inc.*, 24 Utah 2d 165, 467 P.2d 605 (1970).

To include the complaint from which this Appeal is taken is a "TOBT" only City is immune.

Rapp v. Salt Lake City, 527 P.2d 651 (Utah 1974).

Plaintiff uses Utah Rules of Evidence 302. to include Fed. R. Civil. P. "A state court tort to recover for deprivations of Liberty and Property."

Hudson v. Palmer, 468 U.S. 517, 530-36 104 S.Ct. 3194 S.Ct. (1984).

GRANTED. TO include; *Punahut State School & Hospital v. Halckman*, 465 U.S. 89, 104 S.Ct. 900 (1984).

"The Punahut decision only affects suits against STATE officials and employees.... (which Plaintiff has clearly pointed out).

"It is also limited to claims based on state law; it does not limit federal law claims against anyone.

Under, Utah Rules of Civil Procedure Rule 12
-- Criteria.

Defendant made Motion, he could not understand, or frame his responsive Pleadings.

Liquor Control Comm'n v. Atlas, 121 Utah 457, 243 P.2d 441 (1952).

-- Motion to dismiss distinguished.

When the complaint states a claim in general language but is not sufficiently definite in certain respects to enable defendant to answer, a proper remedy is a motion for a more definite statement, not a motion to dismiss. *Liquor Control Comm'n v. Atlas*,

APPEAL BRIEF.

121 Utah 457, 243 P.2d 441 (1952).

The Movants, are in violation of priorst Rule 12
U.R.C.P.

As Plaintiff asserts, U.R.C.P. Rule 60
-- Trial Courts discretion,

Trial court has discretion in determining whether a movant
has shown "mistake, inadvertence, surprise, or excusable
neglect," and the SUPREME COURT will reverse the trial courts
ruling only when there has been an abuse of discretion.

Larsen v. Collins, 684 P.2d 52 (Utah 1984).

Note: Plaintiff has continually pointed out.

-- Courts discretion.

-- Abuse.

Lloyds Unlimited V. Naturas Way Mktg., Ltd.,
P.2d 507 (Utah Ct. App. 1988).

CLAIM,

If no preliminary hearing is held, the Parolee may be
entitled to damages for deprivations of his/her due process rights.
See Wolfel v. Sanborn, 666 F.2d 1005, 1006 (6th Cir. 1981).

To include, Fed. R. Civ. P. Naitzka, 109 S.Ct. 1831-34. Under
Rule 12(b)(6), a district is entitled to dismiss your complaint if he or she
thinks it is wrong on the law, but only after you have notice and an
opportunity to file an amended complaint. See

Elliott v. Bronson, 872 F.2d 20, 22 (2d Cir. 1989) (per curiam) (district
Court abused discretion in dismissing complaint without leave to file
amended pleading when prisoners prose complaint failed to make
short and plain statement of claim as required by FED. R. CIV. P. 8);
Mills v. Criminal Dist. Court, 837 F.2d 677, 679-80 (5th Cir. 1988) (district
court ERRED in dismissing with prejudice prose conspiracy complaint
that failed to state claim upon which relief could be granted; court should
have dismissed without prejudice to allow plaintiff to amend complaint).

WITH PREJUDICE, FACTS. in accordance to Utah Rules of Evidence
Rule 302. Farmers Plant Food V. Fisher, 746 F.2d at 452 (Utah), quoting

APPEAL BRIEF.

Fed. R. Civ. P. # 1

"The Court must determine to dismiss with prejudice
"ONLY" when the aggravating factors outweigh the Judiciary's strong predisposition to resolve cases on their MERITS!"

DISMISSAL with prejudice is a harsh sanction which should be imposed only after balancing the policy of giving the PLAINTIFF his day in court against policies of preventing undue delay. *Garrison*, 714 F.2d at 760

A.B. Shultz Products Co. v. Forest Products Co., 769 F.2d 644, 645 (10th Cir. 1985). "When a dismissal is with 'prejudice' a court must explain why it imposed the extreme sanction of dismissal." see also *Woodmont v. Git-N-Go*, 790 F.2d 1449, 1449 (10th Cir. 1986) (per curiam)

Davis v. Park Hill Good Co., 5 Cir. 302 F.2d 489 (1962); *Moore's Federal Practice*, Vol. 6, 55.10 (1) p. 1829 "Dismissal with prejudice is a harsh sanction and should be imposed, or resorted to in only extreme cases."

IN RE SANCTION OF *Baker*, 744 F.2d 1438, 1442 (10th Cir. 1984). *Curt* denied 471 U.S. 1014 105 S.Ct. 2016 85 2 Ed.2d. 299 (1905)

"The Court should set forth in regard, the justification for the sanction imposed."

APPEAL BRIEF.

(8)

A SUMMARY OF THE ARGUMENT

At this time the Plaintiff/Appellant, summarizes that the Third District Court, continues to resist and ignore the valid Opinion of the Utah Supreme Court, *James Carlos Footz V. UTAH BOARD OF PAROLES*, Case No. 900132 156 Utah App. Rep. 3, to which much Judicial Review, available.

Plaintiff's Writ of Habeas, was dismissed for Lack of Jurisdiction, not affording plaintiff to the right to present the valid ISSUES, with supporting FACTS.

So Plaintiff has filed a Civil-Suit stating CLAIMS for injunctive relief, punitive damages, compensatory damages with Citations, rendering Judgments.

"Quoting from the *Footz V. Utah Board of Pardons*, 156 Utah App. Rep. 3 FILED March 14, 1991. "IT IS THE PROVINCE OF THE JUDICIARY"

"TO ASSURE THAT A CLAIM OF THE DENIAL"
OF THE PROCESS BY AN ARM OF GOVERNMENT"
BE HEARD AND, IF JUSTIFIED, THAT IT BE "
VINDICATED."

The process is one of plaintiff's CLAIMS and by the above, Extract from this valid Opinion, Plaintiff surely requires it be afforded to him. To include: Further Extract from OPINION

"WHAT MAY CONSTITUTE THE PROCESS"
IN ANY GIVEN CIRCUMSTANCE MAY VARY,
BUT ASSURELY, THE PAROLE BOARD IS NOT
OUTSIDE THE CONSTITUTIONAL MANDATE
THAT THE ACTIONS OF GOVERNMENT MUST
"AFFORD THE PROCESS OF LAW. 8 S44,

Hatch V. De Land, 790 P.2d 49 (Utah Ct. App. 1990);
cf. Andrews V. Hays, 779 P.2d 229 (Utah 1989).

APPEAL BRIEF.

(9)

AN ARGUMENT

Plaintiff's allegations grow from the Board of Pardons denial of, due process, liberty, deprivations, equal protection, double jeopardy, credit time served, civil and unusual violations, to which Plaintiff has asserted to, allege Claims as Pro Se Attorney.

The Complaint, in which is being appealed, has set forth ALL pertinent facts (it wasn't dismissed as FRIVOLOUS), but failing to state a claim as a PRACTICING ATTORNEY, would.

Since the Third District Court, is under the impression that I'm to be denied, JUSTICE because of in-appropriate access to conclusive LEGAL MATERIAL, to state claim and resist the Fundamental Fairness, I'm assured as a American, it is EVIDENT this matter be fully APPRISED by UTAH SUPREME COURT because it is Valid Ruling Opinion, that is in Question here.

Furthermore when, Foots was sent to Judge Frederick Third District Court Case No. 910903311 HE ON THIS FINAL Extract From - Valid Opinion - Case No. 900132 158 Utah App. Rep. 3.

"PRECISELY what due process requires of the board of pardons cannot be determined in the abstract, but must be determined only after the facts concerning the procedures followed by the board are flushed out.

"The numerous assertions of fact petitioner makes pertaining to the conduct of the parole hearings (insert, rescission, revocation) are undocumented, and in the absence of an adequate record this Court is unable to conduct a meaningful review of the board's actions or of petitioner's due process claims. We therefore refer this matter to the district court of Salt Lake County for appropriate proceedings.

WE CONCLUDE:

UTAH SUPREME COURT JUSTICES.

APPEAL BRIEF

AN ARGUMENT, CONT.

If this Court does not REMAND this case back to the Trial Court for Adjudication on its Merits and the IDENTICAL CONCEPTS, that Plaintiff must "FLASH OUT", then this Court is Ignoring, Resisting their Policy & Procedure to Administer Justice for the State of Utah, in accordance with the UNITED STATES SUPREME COURT, upon this Court's Lawful Admission.

Furthermore you will have denied the Laws your clothed to Up-Hold, to which is a Denial of EQUAL PROTECTION.

APPEAL BRIEF

(10)

CONCLUSION, PRECISE RELIEF SOUGHT

That this APPEAL be GRANTED and returned back to Third District Court Judge Frederick, for FULL TRIAL UPON MERITS, to be AMENDED to conformity if this Court requires, to include that JUSTICE be rendered, in every aspect.


That defense attorney be appointed to aid, and or assist in Plaintiff exhausting his ALLEGATIONS, that all documents, records, witnesses be allowed to present relevant testimony, "but must be determined only after the facts concerning the procedures followed by the board are flushed out." (Verbatim).

FACTS, FINDINGS, and CONCLUSIONS that are verified by LAW and adjudged be input into, A NEW Policy & Procedure in Accordance with the FEDERAL PAROLE COMMISSION, to Expire in 1997, and Judge's administer Time to be Saved, on MATRIX. To Preserve Fundamental Fairness.

APPEAL BRIEF.

(11)

A MANUAL SIGNATURE


RICHARD DEE THOMAS
ATTORNEY PRO SE

APPEAL BRIEF

(12)

MAILING CERTIFICATE

I do hereby certify that copies of the foregoing has been sent to: ~~THE ATTORNEY GENERAL~~ UTAH ATTORNEY GENERAL
Attention: ~~THE ATTORNEY GENERAL~~ ASSISTANT ATTORNEY GENERAL, Department
of Corrections, 6100 South 300 East, Suite 204, Salt Lake City,
Utah 84107. Robert J. Moore, 236 State Capitol, P.O. Box 140810
Salt Lake City, Utah 84114-0810

Dated this 24 day of January, 1993.

Richard Lee Thomas

APPEAL BRIEF.

(13)

AN ADDENDUM

Claim requirements as stated in Foot's Opinion
evidently extend to the due process doctrine, applied
in, *Foot v. Utah Board of Pardons*, 156 Utah Adv. Rep. 3
"that a claim of the denial of due process"
"by an arm of government be heard,"

Must be in accordance to CLAIM, Assistant Attorney
Kirk M. Torrance, and Judge Frederick, 1984 dismissal upon
Further more, Judge Frederick, is more aware of
Foot's "Opinion" and due process claim, 344 Case No. 910903311 to
to which, Utah Supreme Court remanded for FINAL DISPOSITION, which
Jama Carlos Foot, was released, upon CLAIM, allegations
his RELIEF WAS GRANTED.

To include Plaintiff's claim for which relief can
and has been granted, (invoke Rules of Evidence Rule 302.
Hudson v. McMillian, No. 90-6531, 1992
WL 30619 (U.S. Feb. 25, 1992).

"The Supreme Court reversed, holding that the extent of
petitioner's injuries provides no basis for the dismissal
of the 1985 claim. *Id.* at *6."
Punitive Damages of \$ 800.00 Awarded.

Finally, Plaintiff/Appellant, concludes that basis of
Justice Foundation, is:
UNITED STATES ex rel.

Cunningham v. Clytus, 479 F. Supp. 765
(D. Pa. 1979).

(purpose of exhaustion doctrine is to enable
STATE COURTS to correct any mistakes
which may have occurred in the criminal process.

"EXHIBIT"

RICHARD AEE THOMAS
Attorney Pro Se
Utah State Prison
P.O. Box 250
Wright, Utah 84070

IN THE THIRD JUDICIAL DISTRICT COURT, SALT LAKE COUNTY
STATE OF UTAH

RICHARD AEE THOMAS,
Plaintiff,
vs.

"NOTICE OF CLAIM"
NOTICE OF INTENT.

PETE HAIN, et al.
Defendants.

AFFIDAVIT
OF RICHARD AEE THOMAS

Plaintiff upon the above-captioned as applies
in "CLAIM REQUIREMENT" STATE NOTICE, is applicable to present
state claim, TORT.

Plaintiff alleges:

1. Due Process violations
2. Equal Protection
3. Conspiracy
4. Double Jeopardy
5. Administrative, Board of Policy, Pardons
Time Served
6. Credit Time Served
7. Civil and Unusual Punishment.

This is (90 days) prior to Service, Filing of Complaint.
See *Fulcher v. Carey*, 487 U.S. 131, 108 S. Ct. 2302 (1988).
IN GOOD FAITH APPEARING.

Dated this 26th day of May, 1992.

Richard Aee Thomas
Attorney Pro Se

UNDER PENALTY OF PERJURY

I declare that the above is true and correct
to the best of my knowledge, under penalty of perjury
28 U.S.C. ~~1843~~ 1843CA 1b21.
1996

Richard Aee Thomas
RICHARD AEE THOMAS

PROOF OF SERVICE

I do hereby certify that a true and correct copy of the NOTICE OF CLAIM, NOTICE OF INTENT, Affidavit of RICHARD DEE THOMAS, INAS sent thru the PRISON MAIL, to R. PAUL VAN DAM, Utah Attorney General, Department of Corrections 6100 SOUTH 300 EAST, Suite 204, Salt Lake City, Utah 84109.

Dated this 26th day of May, 1992.

Richard Dee Thomas